

1 H.367

2 Introduced by Representative Ellis of Waterbury

3 Referred to Committee on

4 Date:

5 Subject: Land use; natural resources; municipal and regional planning and
6 development; municipal plans; review, consultation, and amendments

7 Statement of purpose of bill as introduced: This bill proposes to change the
8 requirement to adopt municipal land use plans from five to 10 years; allow
9 plan amendments during this 10-year period without affecting the plan's
10 expiration date; require a five-year interim review of the plan; require
11 consultation with the regional planning commission at least twice during the
12 10-year period; and to clarify requirements for municipal plan amendments,
13 updates, and readoption.

14 An act relating to miscellaneous revisions to the municipal plan adoption,
15 amendment, and update process

16 It is hereby enacted by the General Assembly of the State of Vermont:

1 ~~Sec. 1. 24 V.S.A. § 4350 is amended to read:~~

2 § 4350. REVIEW AND CONSULTATION REGARDING MUNICIPAL
3 PLANNING EFFORT

4 (a) A regional planning commission shall consult with its municipalities
5 with respect to the municipalities' planning efforts, ascertaining the
6 municipalities' needs as individual municipalities and as neighbors in a region,
7 and identifying the assistance that ought to be provided by the regional
8 planning commission. As a part of this consultation, the regional planning
9 commission, after public notice, shall review the planning process of its
10 member municipalities at least twice during ~~an eight-year~~ a 10-year period, or
11 more frequently on request of the municipality, and shall so confirm when a
12 municipality:

13 (1) is engaged in a continuing planning process that, within a reasonable
14 time, will result in a plan ~~which that~~ that is consistent with the goals contained in
15 section 4302 of this title; ~~and~~

16 (2) is engaged in implementing its municipal plan, consistent with the
17 program for implementation required under section 4382 of this title; and

18 (3) is maintaining its efforts to provide local funds for municipal and
19 regional planning purposes.

20 (b)(1) As part of the consultation process, the commission shall consider
21 whether a municipality has adopted a plan. In order to obtain or retain

1 ~~confirmation of the planning process after January 1, 1996, a municipality~~

2 must have an approved plan. A regional planning commission shall review
3 and approve initial or readopted plans of its member municipalities, when
4 approval is requested and warranted. Each review shall include a public
5 hearing which is noticed at least 15 days in advance by posting in the office of
6 the municipal clerk and at least one public place within the municipality and by
7 publication in a newspaper or newspapers of general publication in the region
8 affected. The commission shall approve a plan if it finds that the plan:

9 (A) is consistent with the goals established in section 4302 of
10 this title;

11 (B) is compatible with its regional plan;

12 (C) is compatible with approved plans of other municipalities in the
13 region; and

14 (D) contains all the elements included in subdivisions
15 4382(a)(1)-(10)(12) of this title.

16 ~~(2) Prior to January 1, 1996, if a plan contains all the elements required~~
17 ~~by subdivisions 4382(a)(1)-(10) and is submitted to the regional planning~~
18 ~~commission for approval but is not approved, it shall be conditionally~~
19 ~~approved.~~

20 ~~(e)(2)~~ A commission shall give approval or disapproval to a municipal
21 plan or amendment within two months of its receipt following a final hearing

1 ~~held pursuant to section 4385 of this title. The fact that the plan is approved~~
2 after the deadline shall not invalidate the plan. If the commission disapproves
3 the plan or amendment, it shall state its reasons in writing and, if appropriate,
4 suggest acceptable modifications. Submissions for approval that follow a
5 disapproval shall receive approval or disapproval within 45 days.

6 ~~(d)(3)~~ The commission shall file any adopted plan or amendment with
7 the Department of Housing and Community Development within two weeks of
8 receipt from the municipality. Failure on the part of the commission to file the
9 plan shall not invalidate the plan.

10 (c)(1) As part of the interim consultation process and review under section
11 4386 of this title, the commission shall consider whether a municipality is
12 implementing its adopted plan. In order to retain confirmation of the planning
13 process, a municipality must document that it has reviewed and is actively
14 engaged in implementing its adopted plan. A regional commission shall
15 review the plan interim report submitted by the municipality under section
16 4386 of this title and confirm the municipal planning process if it finds:

17 (A) the submitted report meets the requirements of section 4386 of
18 this title; and

19 (B) the municipality is actively engaged in implementing plan
20 objectives as recommended in the adopted plan.

1 ~~(2) The interim consultation may include recommendations by the~~
2 regional planning commission for plan amendments and for updating the plan
3 prior to readoption under section 4387 of this title.

4 ~~(e)(d)~~ During the period of time when a municipal planning process is
5 confirmed:

6 (1) The municipality's plan will not be subject to review by the
7 Commissioner of Housing and Community Development under section 4351
8 of this title.

9 (2) State agency plans adopted under 3 V.S.A. chapter 67 shall be
10 compatible with the municipality's approved plan. This provision shall not
11 apply to plans that are conditionally approved under this chapter.

12 (3) The municipality may levy impact fees on new development within
13 its borders, according to the provisions of chapter 131 of this title.

14 (4) The municipality shall be eligible to receive additional funds from
15 the municipal and regional planning fund.

16 ~~(f)(e)~~ Confirmation and approval decisions under this section shall be made
17 by majority vote of the commissioners representing municipalities, in
18 accordance with the bylaws of the regional planning commission.

1 ~~Sec. 2. 24 V.S.A. § 4385 is amended to read:~~

2 § 4385. ADOPTION AND AMENDMENT OF PLANS; HEARING BY
3 LEGISLATIVE BODY

4 * * *

5 (d) Plans may be reviewed from time to time and may be amended in the
6 light of new developments and changed conditions affecting the municipality.

7 An amendment to a plan does not affect or extend the plan's expiration date.

8 Sec. 3. 24 V.S.A. § 4386 is added to read:

9 § 4386. INTERIM REVIEW AND REPORT

10 (a) Five years after an initial adoption or readoption of a plan, the planning
11 commission shall conduct an interim review of the plan that shall focus on the
12 status of the plan's recommended implementation program adopted under
13 section 4382 of this title.

14 (b) As part of the interim review, the planning commission shall prepare a
15 written report to be submitted to the municipality's legislative body and, on
16 approval by that body, submitted to the regional planning commission for
17 review under section 4350 of this title. The report shall include:

18 (1) a brief description of plan amendments proposed and enacted since
19 the plan was last adopted or readopted;

1 ~~(2) the status of the plan's implementation program, including actions or~~
2 programs undertaken or proposed to implement the plan and their associated
3 outcomes; and

4 (3) for the next plan update, a proposed timeline and particular issues to
5 be addressed.

6 Sec. 4. 24 V.S.A. § 4387 is amended to read:

7 § 4387. READOPTION OF PLANS

8 (a) All plans, including all prior amendments, shall expire every ~~five~~ 10
9 years unless they are readopted according to the procedures in section 4385 of
10 this title.

11 (b)(1) A municipality may readopt any plan that has expired or is about to
12 expire. Prior to any readoption, the planning commission shall review and
13 update the information on which the plan is based, and shall consider this
14 information in evaluating the continuing applicability of the plan. In its
15 review, the planning commission shall:

16 (A) consider the interim report prepared under section 4386 of
17 this title;

18 (B) engage in community outreach and involvement in updating
19 the plan;

20 (C) consider consistency with the goals established in section 4302 of
21 this title;

1 ~~(D) address the required plan elements under section 4382 of~~

2 ~~this title;~~

3 ~~(E) evaluate the plan for internal consistency among plan elements,~~
4 ~~goals, objectives, and community standards;~~

5 ~~(F) address compatibility with the regional plan and the approved~~
6 ~~plans of adjoining municipalities; and~~

7 ~~(G) establish a program for implementing the plan, including its~~
8 ~~schedule.~~

9 (2) The readopted plan shall remain in effect for the ensuing ~~five~~ 10
10 years unless earlier readopted.

11 (c) Upon the expiration of a plan, all bylaws and capital budgets and
12 programs then in effect shall remain in effect, but shall not be amended until a
13 plan is in effect.

14 (d) The fact that a plan has not been approved shall not make it
15 inapplicable, except as specifically provided by this chapter. Bylaws, capital
16 budgets, and programs shall remain in effect, even if the plan has not been
17 approved.

18 Sec. 5. EFFECTIVE DATE

19 ~~This act shall take effect on July 1, 2015.~~

Sec. 1. 24 V.S.A. § 4350 is amended to read:

~~§ 4350. REVIEW AND CONSULTATION REGARDING MUNICIPAL
PLANNING EFFORT~~

~~(a) A regional planning commission shall consult with its municipalities with respect to the municipalities' planning efforts, ascertaining the municipalities' needs as individual municipalities and as neighbors in a region, and identifying the assistance that ought to be provided by the regional planning commission. As a part of this consultation, the regional planning commission, after public notice, shall review the planning process of its member municipalities at least twice during ~~an eight-year~~ a 10-year period, or more frequently on request of the municipality, and shall so confirm when a municipality:~~

~~(1) is engaged in a continuing planning process that, within a reasonable time, will result in a plan ~~which~~ that is consistent with the goals contained in section 4302 of this title; ~~and~~~~

~~(2) is engaged in a process to implement its municipal plan, consistent with the program for implementation required under section 4382 of this title;~~
~~and~~

~~(3) is maintaining its efforts to provide local funds for municipal and regional planning purposes.~~

~~(b)(1) As part of the consultation process, the commission shall consider whether a municipality has adopted a plan. In order to obtain or retain~~

~~confirmation of the planning process after January 1, 1996, a municipality must have an approved plan. A regional planning commission shall review and approve initial or readopted plans of its member municipalities, when approval is requested and warranted. Each review shall include a public hearing which is noticed at least 15 days in advance by posting in the office of the municipal clerk and at least one public place within the municipality and by publication in a newspaper or newspapers of general publication in the region affected. The commission shall approve a plan if it finds that the plan:~~

~~(A) is consistent with the goals established in section 4302 of this title;~~

~~(B) is compatible with its regional plan;~~

~~(C) is compatible with approved plans of other municipalities in the region; and~~

~~(D) contains all the elements included in subdivisions 4382(a)(1)-(10)(12) of this title.~~

~~(2) Prior to January 1, 1996, if a plan contains all the elements required by subdivisions 4382(a)(1)-(10) and is submitted to the regional planning commission for approval but is not approved, it shall be conditionally approved.~~

~~(e)(2) A commission shall give approval or disapproval to a municipal plan or amendment within two months of its receipt following a final hearing~~

~~held pursuant to section 4385 of this title. The fact that the plan is approved after the deadline shall not invalidate the plan. If the commission disapproves the plan ~~or amendment~~, it shall state its reasons in writing and, if appropriate, suggest acceptable modifications. Submissions for approval that follow a disapproval shall receive approval or disapproval within 45 days.~~

~~(d)(3) The commission shall file any adopted plan ~~or amendment~~ with the Department of Housing and Community Development within two weeks of receipt from the municipality. Failure on the part of the commission to file the plan shall not invalidate the plan.~~

~~(4) If a municipality chooses to request approval of an amendment under subsection 4385(c) of this title, the provisions of subdivisions (2) and (3) of this subsection shall apply.~~

~~(c)(1) As part of the interim consultation process and review under section 4386 of this title, the commission shall consider whether a municipality is implementing its adopted plan. In order to retain confirmation of the planning process, a municipality must document that it has reviewed and is actively engaged in a process to implement its adopted plan. A regional commission shall review the interim report submitted by the municipality under section 4386 of this title and confirm the municipal planning process if it finds:~~

~~(A) the submitted report meets the requirements of section 4386 of this title; and~~

~~(B) the municipality has undertaken actions or developed programs to implement its adopted plan.~~

~~(2) When assessing whether a municipality has been actively engaged in a process to implement its adopted plan, the regional planning commission shall consider the activities of local boards and commissions with regard to the preparation or adoption of bylaws and amendments; capital budgets and programs; supplemental plans; or other actions, programs, or measures undertaken or scheduled to implement the adopted plan. The regional planning commission shall also consider factors that may have hindered or delayed municipal implementation efforts.~~

~~(3) The interim consultation may include guidance by the regional planning commission with regard to resources and technical support available to the municipality to implement its adopted plan and recommendations by the regional planning commission for plan amendments and for updating the plan prior to readoption under section 4387 of this title.~~

~~(e)(d) During the period of time when a municipal planning process is confirmed:~~

~~(1) The municipality's plan will not be subject to review by the Commissioner of Housing and Community Development under section 4351 of this title.~~

~~(2) State agency plans adopted under 3 V.S.A. chapter 67 shall be~~

~~compatible with the municipality's approved plan. This provision shall not apply to plans that are conditionally approved under this chapter.~~

~~(3) The municipality may levy impact fees on new development within its borders, according to the provisions of chapter 131 of this title.~~

~~(4) The municipality shall be eligible to receive additional funds from the municipal and regional planning fund.~~

~~(f)(e) Confirmation and approval decisions under this section shall be made by majority vote of the commissioners representing municipalities, in accordance with the bylaws of the regional planning commission.~~

~~Sec. 2. 24 V.S.A. § 4385 is amended to read:~~

~~§ 4385. **ADOPTION AND AMENDMENT OF PLANS; HEARING BY
LEGISLATIVE BODY**~~

~~* * *~~

~~(d) Plans may be reviewed from time to time and may be amended in the light of new developments and changed conditions affecting the municipality.~~

~~An amendment to a plan does not affect or extend the plan's expiration date.~~

~~Sec. 3. 24 V.S.A. § 4386 is added to read:~~

~~§ 4386. **INTERIM REVIEW AND REPORT**~~

~~(a) Five years after an initial adoption or readoption of a plan, the planning commission shall conduct an interim review of the plan that shall focus on the status of the plan's recommended implementation program~~

~~adopted under section 4382 of this title.~~

~~(b) As part of the interim review, the planning commission shall prepare a brief written report to be submitted to the regional planning commission for review under section 4350 of this title. The planning commission also shall give a copy of the report to the municipality's legislative body. The report shall include:~~

~~(1) a brief description of plan amendments proposed and enacted since the plan was last adopted or readopted;~~

~~(2) the status of the plan's implementation program, including actions or programs undertaken or proposed to implement the plan and their associated outcomes; and~~

~~(3) for the next comprehensive plan update, a proposed timeline and potential issues for consideration.~~

~~Sec. 4. 24 V.S.A. § 4387 is amended to read:~~

~~§ 4387. READOPTION OF PLANS~~

~~(a) All plans, including all prior amendments, shall expire every ~~five~~ 10 years unless they are readopted according to the procedures in section 4385 of this title.~~

~~(b)(1) A municipality may readopt any plan that has expired or is about to expire. Prior to any readoption, the planning commission shall review and update the information on which the plan is based, and shall consider this~~

~~information in evaluating the continuing applicability of the plan. In its~~

~~review, the planning commission shall:~~

~~(A) consider the interim report prepared under section 4386 of this title;~~

~~(B) engage in community outreach and involvement in updating the plan;~~

~~(C) consider consistency with the goals established in section 4302 of this title;~~

~~(D) address the required plan elements under section 4382 of this title;~~

~~(E) evaluate the plan for internal consistency among plan elements, goals, objectives, and community standards;~~

~~(F) address compatibility with the regional plan and the approved plans of adjoining municipalities; and~~

~~(G) establish a program and schedule for implementing the plan.~~

~~(2) The readopted plan shall remain in effect for the ensuing five 10 years unless earlier readopted.~~

~~(c) Upon the expiration of a plan, all bylaws and capital budgets and programs then in effect shall remain in effect, but shall not be amended until a plan is in effect.~~

~~(d) The fact that a plan has not been approved shall not make it~~

~~inapplicable, except as specifically provided by this chapter. Bylaws, capital budgets, and programs shall remain in effect, even if the plan has not been approved.~~

Sec. 5. EFFECTIVE DATE

~~This act shall take effect on July 1, 2015. The 10-year expiration date for municipal plans and the five-year interim consultation and report requirement applies to plans adopted or readopted on or after July 1, 2015. Plans adopted or readopted before July 1, 2015, shall expire in accordance with section 4387 of this title as it existed on the date of adoption or readoption.~~

Sec. 1. 24 V.S.A. § 4350 is amended to read:

*§ 4350. REVIEW AND CONSULTATION REGARDING MUNICIPAL
PLANNING EFFORT*

(a) A regional planning commission shall consult with its municipalities with respect to the municipalities' planning efforts, ascertaining the municipalities' needs as individual municipalities and as neighbors in a region, and identifying the assistance that ought to be provided by the regional planning commission. As a part of this consultation, the regional planning commission, after public notice, shall review the planning process of its member municipalities at least twice during an eight-year period, or more frequently on request of the municipality, and shall so confirm when a municipality:

(1) is engaged in a continuing planning process that, within a reasonable time, will result in a plan ~~which~~ that is consistent with the goals contained in section 4302 of this title; ~~and~~

(2) is engaged in a process to implement its municipal plan, consistent with the program for implementation required under section 4382 of this title; and

(3) is maintaining its efforts to provide local funds for municipal and regional planning purposes.

(b)(1) As part of the consultation process, the commission shall consider whether a municipality has adopted a plan. In order to obtain or retain confirmation of the planning process ~~after January 1, 1996~~, a municipality must have an approved plan. A regional planning commission shall review and approve plans of its member municipalities, when approval is requested and warranted. Each review shall include a public hearing which is noticed at least 15 days in advance by posting in the office of the municipal clerk and at least one public place within the municipality and by publication in a newspaper or newspapers of general publication in the region affected. The commission shall approve a plan if it finds that the plan:

(A) is consistent with the goals established in section 4302 of this title;

(B) is compatible with its regional plan;

(C) is compatible with approved plans of other municipalities in the region; and

(D) contains all the elements included in subdivisions 4382(a)(1)-(10)(12) of this title.

~~(2) Prior to January 1, 1996, if a plan contains all the elements required by subdivisions 4382(a)(1)-(10) and is submitted to the regional planning commission for approval but is not approved, it shall be conditionally approved.~~

~~(e)(2) A commission shall give approval or disapproval to a municipal plan or amendment within two months of its receipt following a final hearing held pursuant to section 4385 of this title. The fact that the plan is approved after the deadline shall not invalidate the plan. If the commission disapproves the plan or amendment, it shall state its reasons in writing and, if appropriate, suggest acceptable modifications. Submissions for approval that follow a disapproval shall receive approval or disapproval within 45 days.~~

~~(d)(3) The commission shall file any adopted plan or amendment with the Department of Housing and Community Development within two weeks of receipt from the municipality. Failure on the part of the commission to file the plan shall not invalidate the plan.~~

(c) In order to retain confirmation of the planning process, a municipality shall document that it has reviewed and is actively engaged in a process to implement its adopted plan.

(1) When assessing whether a municipality has been actively engaged in a process to implement its adopted plan, the regional planning commission shall consider the activities of local boards and commissions with regard to the preparation or adoption of bylaws and amendments; capital budgets and programs; supplemental plans; or other actions, programs, or measures undertaken or scheduled to implement the adopted plan. The regional planning commission shall also consider factors that may have hindered or delayed municipal implementation efforts.

(2) The consultation may include guidance by the regional planning commission with regard to resources and technical support available to the municipality to implement its adopted plan and recommendations by the regional planning commission for plan amendments and for updating the plan prior to re adoption under section 4387 of this title.

~~(e)~~(d) During the period of time when a municipal planning process is confirmed:

(1) The municipality's plan will not be subject to review by the Commissioner of Housing and Community Development under section 4351 of this title.

(2) State agency plans adopted under 3 V.S.A. chapter 67 shall be compatible with the municipality's approved plan. ~~This provision shall not apply to plans that are conditionally approved under this chapter.~~

(3) The municipality may levy impact fees on new development within its borders, according to the provisions of chapter 131 of this title.

(4) The municipality shall be eligible to receive additional funds from the municipal and regional planning fund.

~~(f)~~(e) Confirmation and approval decisions under this section shall be made by majority vote of the commissioners representing municipalities, in accordance with the bylaws of the regional planning commission.

Sec. 2. 24 V.S.A. § 4385 is amended to read:

§ 4385. ADOPTION AND AMENDMENT OF PLANS; HEARING BY

LEGISLATIVE BODY

** * **

(d) Plans may be reviewed from time to time and may be amended in the light of new developments and changed conditions affecting the municipality. An amendment to a plan does not affect or extend the plan's expiration date.

Sec. 3. 24 V.S.A. § 4387 is amended to read:

§ 4387. READOPTION OF PLANS

(a) All plans, including all prior amendments, shall expire every ~~five~~ eight years unless they are readopted according to the procedures in section 4385 of this title.

(b)(1) A municipality may readopt any plan that has expired or is about to expire. Prior to any readoption, the planning commission shall review and update the information on which the plan is based, and shall consider this information in evaluating the continuing applicability of the plan. In its review, the planning commission shall:

(A) consider the recommendations of the regional planning commission provided pursuant to subdivision 4350(c)(2) of this title;

(B) engage in community outreach and involvement in updating the plan;

(C) consider consistency with the goals established in section 4302 of this title;

(D) address the required plan elements under section 4382 of this title;

(E) evaluate the plan for internal consistency among plan elements, goals, objectives, and community standards;

(F) address compatibility with the regional plan and the approved plans of adjoining municipalities; and

(G) establish a program and schedule for implementing the plan.

(2) The readopted plan shall remain in effect for the ensuing ~~five~~ eight years unless earlier readopted.

(c) Upon the expiration of a plan, all bylaws and capital budgets and programs then in effect shall remain in effect, but shall not be amended until a plan is in effect.

(d) The fact that a plan has not been approved shall not make it inapplicable, except as specifically provided by this chapter. Bylaws, capital budgets, and programs shall remain in effect, even if the plan has not been approved.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2016. The eight-year expiration date for municipal plans applies to plans adopted or readopted on or after July 1, 2015. Plans adopted or readopted before July 1, 2015 shall expire in accordance with section 4387 of this title as it existed on the date of adoption or re adoption.